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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/697,726

10/30/2003

Gene A. Loness

NEEC 8772US

7714

1688 7590 02/08/2007  
POLSTER, LIEDER, WOODRUFF & LUCCHESI  
12412 POWERS COURT DRIVE SUITE 200  
ST. LOUIS, MO 63131-3615

EXAMINER

MONIKANG, GEORGE C

ART UNIT

PAPER NUMBER

2615

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/08/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/697,726	Applicant(s) LONESS ET AL.	
	Examiner George C. Monikang	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/30/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Neoh, US Patent 6,728,585 B2.

Re Claim 1, Neoh disclose a remotely operated sound generator (fig. 3: wireless entertainment device) capable of selectively broadcasting a desired one of a plurality of sounds (col. 3, lines 3-6); said sound generator comprising a remote control unit (fig. 3: 18; col. 3, lines 1-2) comprising a transmitter (col. 3, lines 1-3), a sound selector (col. 3, lines 3-6: song selection, volume, bass and treble of controls), and an activator (col. 3, lines 3-6: on/off selection of controls); said remote control unit, when activated, transmitting a signal indicative of a desired one of the plurality of sounds (col. 3, lines 6-8: the receiver will receive whatever sound type, song selection the control unit transmits); and a base unit (fig. 3: 14) comprising a sound memory on which a plurality of sounds can be stored (col. 3, lines 6-9 & col. 3, lines 20-24), a speaker (fig. 3: 14 & col. 3, lines 6-7; a wireless headphone unit includes speakers), and a receiver (col. 3, lines 6-8); said base unit receiving said signal from said remote control unit (col. 3,

lines 6-8), and, upon receipt of said signal, broadcasting said one of said selected sounds through said speaker (col. 3, lines 6-11).

Re Claim 2, Neoh discloses the remotely operated sound generator of claim 1 wherein said sound selector comprises a plurality of buttons, each button corresponding to a different sound (col. 3, lines 3-6: song selection, volume, bass and treble of controls).

Re Claim 3, Neoh discloses the remotely operated sound generator of claim 2 wherein said activator comprises said sound selector buttons (col. 3, lines 3-6: on/off selection of controls), whereby a circuit of said remote control unit is normally opened, said circuit being closed when one of said sound selector buttons is pressed to transmit said signal (col. 3, lines 3-6: on/off selection of controls; the control is off when the remote circuit is open and on when it is closed).

Re Claim 4, Neoh discloses the remotely operated sound generator of claim 1 wherein said signal includes a code (col. 3, lines 20-21); wherein the sound generator including a switch for altering the signal code (col. 3, lines 3-6: on/off selection of controls; this controls transmits the signal thus altering it; col. 3, lines 3-6: song selection, volume, bass and treble of controls).

Re Claim 11, Neoh disclose a remotely operated sound generator (fig. 3: wireless entertainment device) capable of selectively broadcasting a desired one of a plurality of sounds (col. 3, lines 3-6); said sound generator comprising: a base unit comprising (fig. 3: 14) a memory for storing a plurality of sounds (col. 3, lines 6-9 & col. 3, lines 20-24), a speaker (fig. 3: 14 & col. 3, lines 6-7; a wireless headphone unit

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includes speakers), an activation signal receiver (col. 3, lines 6-8), a switch for selectively switching said base unit between a playback mode and a recording mode (col. 3, lines 12-16); and a sound input (col. 3, lines 20-23). A remote control unit (fig. 3: 18; col. 3, lines 1-2) comprising an activation signal emitter (col. 3, lines 3-6: on/off selection of controls) and a sound selector col. 3, lines 3-6: song selection, volume, bass and treble of controls); whereby, when activated, said remote control unit emits a signal indicative of a desired one of the plurality of sounds (col. 3, lines 6-8: the receiver will receive whatever sound type, song selection the control unit transmits); whereby, when said base unit is in its play back mode, said base unit broadcasts a sound chosen with said sound selector upon receiving an activation signal from said remote control unit (col. 3, lines 3-6: on/off selection of controls), and when said base unit is in its record mode, said base unit records (downloading) a sound received through said sound input in a memory chosen with said remote control unit sound selector (col. 3, lines 20-23).

Re Claim 13, Neoh discloses the remotely operated sound generator of claim 11 including means for associating a sound with a signal from said remote control unit during recording of a new sound (col. 3, lines 20-24).

Re Claim 14, Neoh discloses the remotely operated sound generator of claim 13 wherein said sound associating means comprises said sound selector of said remote control unit (col. 3, lines 3-12: controls 26).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neoh, US Patent 6,728,585 B2 as applied to claim 4 above, in view of Gulliford et al, US Patent 5,384,776.

Re Claim 5, Neoh discloses the remotely operated sound generator of claim 4 but fails to disclose wherein said switch comprises one or more DIP switches in one or both of said remote control unit and said base unit. However, Gulliford does (col. 13, lines 9-18).

Taking the combined teaching of Neoh and Gulliford et al, one skilled in the art would have found it obvious to modify the remotely operated sound generator of claim 4 of Neoh with wherein said switch comprises one or more DIP switches in one or both of

said remote control unit and said base unit as taught in Gulliford (col. 13, lines 9-18) to customize the behavior of the remotely operated sound generator for specific situations.

Re Claim 6, the combined teaching of Neoh and Gulliford et al disclose the remotely operated sound generator of claim 1 including a record switch to selectively switch said base unit between a play back mode and a record mode (Neoh, col. 3, lines 12-16) and an input for receiving new sounds (Neoh, col. 3, lines 20-23), whereby, when said base unit is in its recording (Neoh, downloading) mode (Neoh, col. 3, lines 20-23), a sound received through said input is stored at a selected location in said base unit (Neoh, col. 3, lines 20-23).

Re Claim 7, the combined teaching of Neoh and Gulliford disclose the remotely operated sound generator of claim 6 wherein said record switch is located on said base unit (col. 3, lines 12-16).

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Neoh, US Patent 6,728,585 B2 and Gulliford et al, US Patent 5,384,776 as applied to claim 6 above, and further in view of Bauer, US Patent 5,832,438.

Re Claim 8, the combined teaching of Neoh and Gulliford et al disclose the remotely operated sound generator of claim 6 but fails to disclose wherein said sound input comprises a microphone. However, Bauer does (abstract).

Taking the combined teaching of Neoh, Gulliford and Bauer as a whole, one skilled in the art would have found it obvious to modify the remotely operated sound generator of Neoh and Gulliford et al with wherein said sound input comprises a

microphone as taught in Bauer (abstract) so that sound can be inputted into the remotely operated sound generator by a user.

Re Claim 9, the combined teaching of Neoh, Gulliford et al and Bauer disclose the remotely operated sound generator of claim 8 wherein said input comprises a line in-jack, said line-in jack being adapted to removably connect said base unit to an external microphone or a device capable of playing sounds (Bauer, abstract).

Re Claim 10, the combined teaching of Neoh, Gulliford et al and Bauer disclose the remotely operated sound generator of claim 1 wherein said base unit comprises a line-out jack to removably connect said base unit to a recording device to record the sounds stored in said base unit memory (Bauer, abstract & col. 1, lines 35-38).

Claim 12 has been analyzed and rejected according to claims 8-10.

Claim 15 has been analyzed and rejected according to claims 8-10.

### **Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Monikang whose telephone number is 571-270-1190. The examiner can normally be reached on M-F. alt Fri. Off 7:30am-5:00pm (est).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.




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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

George Monikang

1/26/2007

  
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